

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

STEVEN HALL,

PLAINTIFF

v.

**HOME DEPOT U.S.A., INC.,
CRARY COMPANY, AND
TERRAMARC INDUSTRIES, INC.,**

DEFENDANTS

CIVIL No. 09-277-P-H

**ORDER AFFIRMING RECOMMENDED DECISION AND MEMORANDUM DECISION
OF THE MAGISTRATE JUDGE AND ORDER ON MOTION FOR SEPARATE TRIALS**

On September 14, 2010, the United States Magistrate Judge filed with the Court, with copies to counsel, his Recommended Decision on Defendant Home Depot U.S.A., Inc.'s Motion for Summary Judgment and Memorandum Decision on Its Motion to Exclude Testimony. The defendant Home Depot U.S.A. Inc. filed objections to both on October 1, 2010.

I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision. The motion for summary judgment is **DENIED.**

I have reviewed and considered the Memorandum Decision. I concur with the Magistrate Judge's Memorandum Decision because it is neither clearly

erroneous nor contrary to law. The motion to exclude the testimony of Robert V. Flynn is **GRANTED** as to the subject matter of paragraphs 3-15 of his April 2010 declaration (Docket No. 62-2), the matters set forth in the first full paragraph on page 7 of the plaintiff's opposition to the motion to exclude (Docket No. 62) and the paragraph immediately following it, and the tests mentioned in Attorney Pierce's March 25, 2010, letter (Docket No. 70-1), and is otherwise **DENIED**.

The Clerk's Office shall schedule the defendants Crary Company's and Terramar Industries, Inc.'s motion for separate trials for oral argument.

SO ORDERED.

DATED THIS 21ST DAY OF OCTOBER, 2010

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE